

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

TEXTRON INNOVATIONS INC., )  
                                  )  
Plaintiff,                    )  
                                  )  
v.                             ) C. A. No. 05-486 (GMS)  
                                  )  
THE TORO COMPANY,            )  
                                  )  
Defendant.                    )

**DECLARATION OF JAMES R. SWINDAL**

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*Attorneys for Defendant  
The Toro Company*

Dated: August 16, 2005

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

TEXTRON INNOVATIONS, INC.,	)	
	)	CIVIL ACTION NO. 05-486 (GMS)
Plaintiff,	)	
	)	
v.	)	
	)	
THE TORO COMPANY,	)	
	)	
Defendant.	)	
	)	

DECLARATION OF JAMES R. SWINDAL

I, James R. Swindal, declare as follows:

1. I am a former employee of The Toro Company ("Toro"). I worked at Toro from October 4, 1971 to May 1, 2000. On or about May 1, 2000, I retired from Toro. I am 63 years of age.
2. I currently live at 117 E. 135 St., Burnsville, Minnesota 55337. My residence is approximately a 15-minute drive to either St. Paul or Minneapolis, Minnesota.
3. I was the Managing Director of Technical Operations of the Commercial Division for Toro from 1988 to May 1, 2000. In this position, I was responsible for research, development, and ongoing engineering support for new and existing commercial turf maintenance products, which include Toro's GroundsMaster 3500-D, 4500-D and 4700-D products or their predecessors. It is my understanding that these are among the principal products Textron, Innovations, Inc. is accusing of patent infringement in this case.
4. Through my position at Toro, I have extensive factual knowledge related to the modeling, research, development, engineering and testing of the GroundsMaster products. Examples of the areas of my factual knowledge are:

- a. Research, design, development, and testing of the products;
- b. Research, design, development, and testing of the cutting units of the products;  
and
- c. Evolution of the products from inception to production.

5. I understand that this lawsuit is currently pending in Delaware. I believe that because of my extensive factual knowledge regarding research, development, design and testing of the products at issue, I may be asked to be a witness to testify at trial.
6. It would be very inconvenient for me to travel to Delaware to testify in this matter. Moreover, even if Toro were to ask me to testify in Delaware, I would probably decline unless the Court could require me to attend.
7. It would be much less of a burden and inconvenience for me to testify if trial was held in Minnesota.

I declare under penalty of perjury of the laws of the United States that the foregoing is true and correct.

Executed this 12<sup>th</sup> day of August 2005.



James R. Swindal

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

**CERTIFICATE OF SERVICE**

I, David E. Moore, hereby certify that on August 16, 2005, the attached document was hand delivered to the following persons and was electronically filed with the Clerk of the Court using CM/ECF which will send notification of such filing(s) to the following and the document is available for viewing and downloading from CM/ECF:

Edmond D. Johnson  
Peter B. Ladig  
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I hereby certify that on August 16, 2005, I have Federal Expressed the documents to the following non-registered participants:

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By: 

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